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SUBJECT: SUPREME COURT UNANIMOUSLY ENDORSES OUTCOME OF 2003 ELECTION, DENIES THAT ELECTION WAS FLAWED

REF: ABUJA 1172

Summary

1. (SBU) On the morning of July 1, the Supreme Court unanimously and strongly rejected the challenge to the 2003 election filed by All Nigerian People's Party (ANPP) presidential candidate Muhammadu Buhari. The Court found that the election was in "substantial compliance" with the election law, and even rejected findings of a lower court that voided one state's results. In a press conference shortly afterwards, Buhari urged unity among opposition groups and called for calm, but said that Nigeria would not have a fair election in the near future. He promised to regroup for 2007, but his party may not want to wait that long.

The Supreme Court Issues Its Ruling

2. (SBU) On the morning of July 1, the Supreme Court ruled unanimously to reject the challenge to the 2003 election filed by ANPP presidential candidate Muhammadu Buhari, ending a court case that had been ongoing for over two years. A presidential election tribunal had ruled in a majority decision in February that although the election was significantly flawed, the flaws were not enough to overturn the election (although the result in President Obasanjo's home state of Ogun was nullified). The Supreme Court, however, did not acknowledge the flaws identified by the lower court, and even overturned the Ogun State verdict, reinstating Obasanjo's victory in that state. (Note: The Ogun State result had been vacated because the number of votes for Obasanjo had exceeded the total number of voters in the state. End Note.)

3. (SBU) According to Professor Y. O Aliu, one of the few people allowed at the court (Poloffs were denied access), ANPP lead counsel Mike Ahamba came late because the security men did grant him quick access to the venue. He alleged most of the people at the gallery of the Supreme Court were PDP members, while hundreds of ANPP supporters were stranded at different locations outside the court. Poloffs noted a heavy police presence on the street, with police helicopters flying overhead and crowds of ANPP supporters prevented from entering the Supreme Court grounds.

4. (U) Chief Justice Uwais read the lead judgment. The seven justices were unanimous in their decision but only five justices were present at the court. The Court convened at 9:00 a.m. and completed its sitting within an hour. Justice Uwais addressed the eight points of Buhari's petition that alleged specific acts on non-compliance with the Electoral Act, but concluded that the 2003 presidential elections were conducted with "substantial compliance" with the Act. The Court was critical of the minority position of the lower tribunal, calling the judge who wrote a minority opinion "too emotional." The Supreme Court therefore upheld the 2003 elections and threw out Buhari's petition.

5. (SBU) Outside the court, observers told Poloffs that they were not surprised at the judgment because "the judiciary is under the firm control of the executive arm." One university professor said the verdict proves that "Nigeria is a corrupt nation." Some suggested that the verdict was delivered under pressure on the Chief Justice from Obasanjo. All observers, however, were stunned by the unanimity of the Supreme Court's decision: everyone had seen election irregularities firsthand, and the 18-month-long election tribunal had presented mountains of evidence of election problems.

Buhari's Reaction

16. (SBU) Shortly after the verdict, Poloffs attended a Buhari press conference at ANPP headquarters. Poloffs noted no unusual police presence outside the ANPP building, and Abuja was calm. (Note: Consulate Lagos reported no unusual activity in the streets, nor did Embassy contacts in the major cities of the North have any reports of demonstrations or violence.) Inside the building, the conference room was packed, with ANPP supporters, VIPs, and media in attendance. Kano State Governor Shekarau shared the podium with Buhari, and Poloffs spotted at least five members of the National Assembly, all from the ANPP, in the audience. The atmosphere inside the room was electric, with onlookers expressing a mixture of anger at the verdict and excitement at what Buhari would announce.

17. (SBU) Buhari's initial comment on the verdict was diplomatic: "Based on the belief in the supremacy of rule of law...on our part, we accept the decision of the court although we did not agree with it." But he went on to say that the decision did not "conform with facts and common sense. It is a political decision, not a legal decision, and Nigerians would regard it as such." He appealed for calm among his supporters, but promised to "keep fighting" until the 2007 election.

18. (SBU) He said that if the ANPP does not learn from the lessons of the 2003 national election and the 2004 local government elections, both marred with serious electoral fraud, "We have only ourselves to blame," ominously warning that, "Nigerians must awake and fight against this brigandage in the future." He said that the Supreme Court's verdict "legitimized" and "sanctioned" the 2003 election irregularities, and he declared, "It is clear that no normal election will be held in Nigeria in the near future."

19. (SBU) Buhari also called for unity, but unity among opposition groups. He said he was committed to staying in politics, a line greeted with much applause, and was motivated by the problems of Nigeria, most of all "the bad governance of the past six years" (the Obasanjo regime). He listed some of Nigeria's many problems, and pointed to a failure of leadership as the reason for the problems, then said, "We are ready to provide that leadership."

Will Conditions Remain Calm?

110. (SBU) After the press conference, Poloffs spoke with several ANPP officers, who said that they would heed Buhari's call for calm "for now," but that the party leadership would have to meet next week "to do serious planning." One party official suggested to Poloff that it was "not likely" the ANPP would "sit and wait for 2007," but he stopped short of suggesting any possibilities for action.

CAMPBELL